THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18148 of 2005

ORAL ORDER:

This writ petition is filed being aggrieved by the orders passed by the third respondent in proceedings Rc.No.A7/2245/2003 dated 27.10.2004 as confirmed by second respondent vide proceedings in Rc.No.B1/SRA/36/2004 dated 29.4.2005 and further confirmed by first respondent vide his proceedings Rc.No.B1/RP/06/2005 dated 11.7.2005.

It appears, the petitioner was the fair price shop dealer of Shop No.5 of Mylavaram village and mandal, Krishna district. While so, his authorisation was cancelled by the third respondent vide order dated 27.10.2004 after conducting enquiry into the three charges levelled against the petitioner. Aggrieved by the same, petitioner carried the matter in appeal before the second respondent. The second respondent by order dated 29.4.2005 dismissed the appeal confirming the orders passed by the third respondent. Aggrieved by the same, petitioner further carried the matter in revision before the first respondent. The first respondent, after elaborate consideration of the matter, by order dated 11.7.2005 dismissed the revision confirming the orders passed by the second respondent. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner strenuously contended that the whole basis for cancellation of authorization of the petitioner is the report of the Mandal Parishad Development Officer (MPDO), Mylavaram, which was called for during the course of enquiry before the third respondent. Neither a copy of the said report was furnished to the petitioner nor he was given any notice in the enquiry purported to have been conducted by the MPDO. The MPDO seems to have stated that the coupons sent to him pertains to another dealer Jamalaiah and

the dealer name written on the coupons were tampered and the name of the petitioner is written, which is clearly seen. The learned counsel for the petitioner submits that neither Jamalaiah was examined in the enquiry nor the MPDO was examined by the third respondent. Only on the basis of the purported enquiry conducted by the MPDO behind the back of the petitioner, the authorisation of the petitioner was cancelled.

I am of the opinion that conducting of enquiry in such a fashion is in gross violation of principles of natural justice. May be in a given case, the report was called for from the MPDO, but that does not mean that without furnishing a copy of the said report to the petitioner, and without conducting enquiry in the presence of the petitioner, the third respondent can pass impugned order cancelling the authorisation of the petitioner. The enquiry report submitted by the MPDO could not have been taken into consideration for the purpose of coming to the conclusion that the petitioner has committed certain irregularities under the Control Orders. It is the case of the petitioner that on the basis of coupons from Serial Nos.003701 to 003710, he distributed ten quintals of rice meant for Food For Work scheme. According to the MPDO, those coupons were given to another dealer Jamalaiah. Neither the said Jamalaiah was examined nor the petitioner was given any opportunity to disprove the same. In those circumstances, the impugned order suffers from gross violation of principles of natural justice.

In the result, the writ petition is allowed and the order passed by the third respondent dated 27.10.2004 as confirmed by second respondent vide proceedings dated 29.4.2005 and further confirmed by first respondent vide proceedings dated 11.7.2005 are liable to be set aside and accordingly set aside. The matter is remitted back to the third respondent for conducting fresh enquiry. The third respondent is directed to furnish a copy of the enquiry report and all the papers as requisitioned by the petitioner and thereafter shall pass appropriate

orders as per law. Meanwhile, status quo as on today shall be maintained. No order as to costs.

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C.V.RAMULU,
J

Date: 30.10.2006

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18148 of 2005

30.10.2006

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.18148 of 2005

Date: 30th October, 2006

Between:

Smt.B.S.V.Nagamani

.. Petitioner

And

The District Collector, Krishna
at Machilipatnam & others.

.. Respondents